IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH.

CWP No.10092 of 2007
Date of decision: 22.08.2007

Mayor World School.

-----Petitioner

Vs.

The State of Punjab and others.

-----Respondents

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE AJAI LAMBA

Present: Mr. Sarjit Singh, Sr. Advocate with
Mr. Vikas Singh, Advocate
for the petitioner.

Mr. Harsh Aggarwal, Advocate
for respondents No.2.

Adarsh Kumar Goel, J.

This petition seeks a direction to allow the students of the petitioner/school to appear in the examination to be held in March, 2008.

Case set up in the petition is that in June 2005, the petitioner-school applied for affiliation to the Central Board of Secondary Education (CBSE), respondent No.2, vide application, Annexure P-2. The grant of affiliation is governed by Central Board of Secondary Education Affiliation Bye-Laws, 1988.

It has been stated by respondent No.2 that CBSE is a Society registered under the Societies Registration Act, 1860 and Bye-Laws have been framed by the said Society. Under Bye-Law 15,

application for affiliation has to be made before 30th June of the year preceding the year in which the classes 7th, 9th and 11th are proposed to be started. The petitioner-school proposed to start the classes from April, 2006 and had, therefore, made an application accordingly. Under the Bye-Laws, the petitioner was required to obtain No Objection Certification (NOC) from the State Government, for which, separate steps were to be taken. Finally, NOC, Annexure P-6, was also granted by the State Government on 21.3.2007 and affiliation was granted by the CBSE on 20.6.2007 for three years w.e.f. 1.4.2007 to 31.3.2010 vide Annexure P-8.

The grievance of the petitioner is that while granting affiliation, one of the conditions prescribed is that the school should disband the existing class 10th. It is pointed out that subsequently, another letter dated 31.7.2007 was issued by the CBSC, Annexure P-14, directing that the students be allowed to appear from other schools in March 2008.

Learned counsel for the CBSE has also pointed out that by a subsequent letter dated 23.7.2007, the State Government has made its NOC operative from June 2005.

The stand of the CBSE while opposing the petition is that since the affiliation has been granted from 1.4.2007, 9th class could start only in the said year.

We have considered the rival submissions and perused the record.

The question is whether the school having applied for affiliation in June 2005 and NOC having been granted from June 2005 and affiliation also having been granted, the CBSE could require disbanding of classes, which had already commenced particularly when stand of the CBSE is that the students could appear in 10th class through other schools.

We are clearly of the view that there is no justification for imposing a condition disbanding the classes when affiliation was granted. The school had applied in June 2005 itself and according to the Bye-Laws, 9th class commenced in April 2006. Once affiliation is granted, there is no reason to disband the class. It would have been a different matter if the school was not upto the required standards and affiliation was not granted, in which event, the school may have been required to disband the classes.

In view of above, we allow this petition and quash the condition of disbanding of Class 10th of the petitioner school. It is made clear that once the order of disbanding has been quashed, the CBSE will not obstruct the taking of examination of the eligible students.

The writ petition is disposed of accordingly.

(ADARSH KUMAR GOEL)
JUDGE

August 22, 2007 **(AJAI LAMBA)**
ashwani **JUDGE**